

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

STEVEN CHARLES FORBESS,

Case No. 3:08-cv-01261-AC

Petitioner,

v.

ORDER

DON MILLS, Superintendent,
Two Rivers Correctional Institution,

Respondent.

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Suite 204
Bend, Oregon, 97702

Attorney for Petitioner

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Attorneys for Respondent

MARSH, Judge.

Magistrate Judge John V. Acosta filed his Findings and Recommendation on August 17, 2012. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When a party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. See 28 U.S.C. § 636(b)(1)(B); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981); accord Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*).

Petitioner has filed timely objections. Therefore, I have given the file of this case a *de novo* review. I find no error. Accordingly, I ADOPT Judge Acosta's Findings and Recommendation (#97). Petitioner's habeas petition (#3) is DENIED as untimely, and a certificate of appealability is DENIED on the basis that petitioner has failed to demonstrate that jurists of reason would find it debatable whether petitioner's habeas petition is subject to dismissal as untimely, and would find it debatable whether

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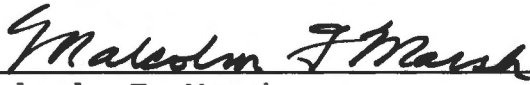
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petitioner states a valid claim of the denial of a constitutional right. Slack v. McDaniel, 529 U.S. 473, 484 (2000); 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 17 day of September, 2012


Malcolm F. Marsh
United States District Judge